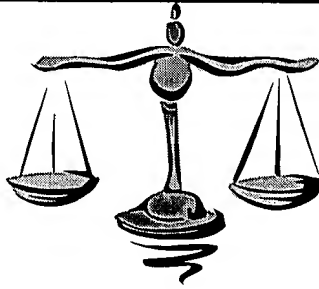


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Serial No. 09/864,017

Incoming _____ **Date Received:** _____

Outgoing X **Date Mailed:** 10/09/07

TOC Code: APRD

Document Type Order Returning Undocketed
Appeal

Annotations: _____

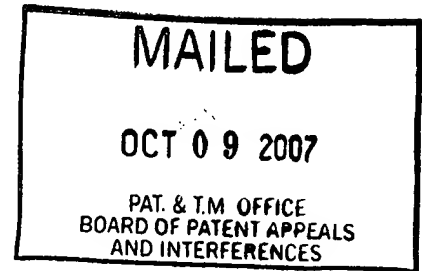
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte: VEIJO VANTTINEN and HAITAO TANG

Application 09/864,017



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences (BPAI) on September 18, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matter requiring attention prior to docketing is identified below.

The Final Rejection mailed on August 24, 2005, list the following grounds of rejection:

Claim[s] 33-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Jokiahho et al (US 5,889,770).

Claims 1-5, 7, 9-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havinis et al (US 6,671,377 B1), and further in view of Jokiaho et al (US 5,889,770).

Claims 6, 8, 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havinis et al (US 6,671,377 B1), further in view of Jokiaho et al (US 5,889,770), and further in view of Barnes et al (US 6,771,147 B1).

Appellants reiterate these grounds of rejection on page 5 of the Appeal Brief filed January 27, 2006. The Examiner's Answer mailed February 5, 2007, states on page 3 of the Examiner's Answer under the heading *Grounds of Rejection to be Reviewed on Appeal* that "[t]he appellant's statement of grounds of rejection to be reviewed on appeal is correcet. The change is as follows:." However, only the following grounds of rejection are listed:

Claim 33-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Jokiaho et al (US 5,889,770).

Claims 27-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Havinis et al (US 6,671,377 B1), further in view of Jokiaho et al (US 5,889,770), and further in view of Barnes et al (US 6,711,147 B1).

On page 3 of the Examiner's Answer mailed February 5, 2007, under the heading *Grounds of Rejection* the Examiner omits claims 1-8 and 9-26.

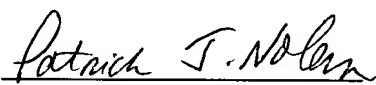
Therefore, it is not clear whether the Examiner has dropped claims 1-8 and 9-26 or whether the Examiner has inadvertently omitted claims 1-8 and 9-26.

Clarification is required.

Accordingly, it is ORDERED that the application is returned to the Examiner:

- 1) for a determination regarding the status of claims 1-8 and 9-26, and, if necessary, to vacate the Examiner's Answer mailed February 5, 2007, and issues a revised Examiner's Answer; and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES


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Application 09/864,017

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